

Exhibit 4

From: Gelfand, Shira Z. <sgelfand@outtengolden.com>
Sent: Tuesday, October 17, 2023 3:28 PM
To: Gage, Kenneth W.
Cc: Tomezsko, Sara B.; Dabashi, Kaveh; Greene, Cara; Chiarello, Gregory; Yang, Vincent; Gutierrez, Jean Marie
Subject: [EXT] RE: [EXTERNAL] Re: Rowe/Google- Production

--- External Email ---

Ken-

To the extent such documents exist, Google should have produced them long ago, and at a minimum on November 11, 2022, when it produced D74, D76, D77, and D78. Mr. Vardaman testified that he created these status reports and updated them continuously to keep track of the VP-FS search in preparation for his meetings with Ms. Kliphouse (Trial Tr. 662:19- 664:20). At trial, Mr. Vardaman testified for the first time, and contrary to his earlier deposition testimony, that these status reports exist and were created by him in conjunction with the VP-FS search. Google is obligated to supplement its discovery to produce these documents which are responsive to our prior discovery requests and relevant to the claims being tried. Indeed, Google has offered no explanation for why it did not timely produce any such documents. Likewise, Thrive data related to the VP-FS sales should have been produced long ago, and given Mr. Vardaman's unreliable testimony relating to the existence of documents, we request that you review and confirm whether there is data entered for Ms. Rowe in Thrive after Jan. 2019.

It is not unreasonable for Google to take a position by 4:00 p.m. on whether it will be producing relevant, responsive documents, and given the court's deadline of 5:00 p.m. to address evidentiary issues, we will need to include this in the letter if Google does not confirm that they will produce all such documents, to the extent they exist.

Also, when we can get your position on the elements of the letter we sent this morning? We had asked for a response by 3:00.

-Shira



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From: Gage, Kenneth W. <kennethgage@paulhastings.com>
Sent: Tuesday, October 17, 2023 2:50 PM
To: Gelfand, Shira Z. <sgelfand@outtengolden.com>
Cc: Tomezsko, Sara B. <saratomezsko@paulhastings.com>; Dabashi, Kaveh <kavehdabashi@paulhastings.com>; Greene, Cara <ceg@outtengolden.com>; Chiarello, Gregory <gchiarello@outtengolden.com>; Yang, Vincent

<vyang@outtengolden.com>; Gutierrez, Jean Marie <jeanmariegutierrez@paulhastings.com>

Subject: [EXTERNAL] Re: Rowe/Google- Production

Shira, please let us know what testimony you're referring to, so we can evaluate Plaintiff's request. Also, given the timing of Plaintiff's request, your artificial 4PM deadline is unreasonable. We'll certainly get back to you as quickly as we can, once we know what testimony you're talking about.

Ken Gage

Sent from my mobile device.

917.414.4959

On Oct 17, 2023, at 2:43 PM, Gelfand, Shira Z. <sgelfand@outtengolden.com> wrote:

Sara and Ken,

In light of Mr. Vardaman's testimony at trial, please produce this afternoon all VP-FS – Sales weekly status reports (e.g. D74, D76, D77, D78) dated after Feb. 21, 2020. In addition, please produce Ms. Rowe's updated Thrive data containing information on the VP-FS Sales role. If Defendant objects to producing these documents, please let us know by 4PM today so that we can include it in our letter to the Court.

Thanks,

Shira

<[https://urldefense.com/v3/_http://www.outtengolden.com/_;!!JB8VoVbPfh38FcDZRpZ1rQ!2KymEpLOP0EHvTkcB8oaJI53ym2uOFourAJgL6GQByDRZAyr22RkbYKqPPh3FRfLOtta_U1Osbb3gHOM8YM57uCinX_C\\$](https://urldefense.com/v3/_http://www.outtengolden.com/_;!!JB8VoVbPfh38FcDZRpZ1rQ!2KymEpLOP0EHvTkcB8oaJI53ym2uOFourAJgL6GQByDRZAyr22RkbYKqPPh3FRfLOtta_U1Osbb3gHOM8YM57uCinX_C$)>

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